

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>HENRY COTTERILL, JR.,</b>	:	<b>CIVIL ACTION NO. 3:17-CV-805</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>NANCY A. BERRYHILL,<sup>1</sup></b>	:	
	:	
<b>Defendant</b>	:	

**ORDER**

AND NOW, this 17th day of September, 2018, upon consideration of the report (Doc. 15) of Magistrate Judge William I. Arbuckle, recommending that the court vacate the decision of the administrative law judge denying the application of Henry Cotterill, Jr. (“Cotterill”) for a period of disability, disability insurance benefits, and supplemental security income, and remand this matter for further proceedings, wherein Judge Arbuckle opines that the administrative law judge’s decision is not “supported by substantial evidence,” 42 U.S.C. § 405(g), and it appearing that the Commissioner of Social Security (“Commissioner”) does not object to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a

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<sup>1</sup> Due to the Federal Vacancies Reform Act, 5 U.S.C. § 3345 *et seq.*, former acting Commissioner of Social Security Nancy A. Berryhill is currently presiding as the Deputy Commissioner for Operations of the Social Security Administration. For consistency purposes, however, we continue to refer to Ms. Berryhill as “the Commissioner.”

matter of good practice, a district court should “afford some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R. CIV. P. 72(b), advisory committee notes, and, following review of the record, the court being in agreement with Judge Arbuckle’s recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 15) of Magistrate Judge Arbuckle is ADOPTED.
2. The Clerk of Court shall enter judgment in favor of Cotterill and against the Commissioner as set forth in the following paragraph.
3. The Commissioner’s decision is VACATED and this matter is REMANDED to the Commissioner with instructions to conduct a new administrative hearing, develop the record fully, and evaluate the evidence appropriately in accordance with this order and the report (Doc. 15) of Magistrate Judge Arbuckle.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER  
Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania